

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH  
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE V.ESWARAIAH**

**WRIT PETITION NO : 23218 of 2004**

Between:

Khaja Moinuddin, S/o Khaja Salauddin,  
R/o Ailapur, Korutla Mandal, Karimnagar District.

**... PETITIONER**

AND

- 1 The Divisional Forest Officer, Karimnagar Division, Karimnagar District.
- 2 The Conservator of Forest, Warangal Circle, Warangal.

**...RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or Writ in the nature of Writ of mandamus declaring the impugned Proceeding passed by the first respondent in Rc.No. 11836/86/S5 dated 10-11-2004 as illegal, unjust and contrary to the provisions of the A.P. Saw Mill (Regulation) Rules, 1969 and consequently set aside the impugned proceedings dated

10-11-2004 in Rc.No. 11836/86/S5 and pass such other order or orders

**Counsel for the Petitioner: MR.P.V.VIDYASAGAR**

**Counsel for the Respondents: GP FOR FORESTS**

**The Court made the following order:**

**ORDER:**

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Petitioner questions the order passed by the Divisional Forest Officer, Karimnagar Division, Karimnagar District, dated 10.11.2004 canceling the license of the petitioner in respect of the Salauddin Saw Mill and Timber Depot at Ailapur and also the order of confiscation of the forest produce involved in the offence together with the whole plant, machinery, implements and equipments, which have been used in commission of offence to the State. Admittedly an appeal lies against the said order to the Conservator of Forests, Warangal Circle, Warangal.

Against the said impugned order the petitioner filed an appeal dated 24.11.2004, which was received by the second respondent on 25.11.2004 within the prescribed time. Therefore, when an appeal is pending before the appellate authority, I am of the opinion that it may not be just and proper for this Court to entertain this writ petition.

Learned counsel for the petitioner submits that the offence said to have been committed by the petitioner is the first offence and if that be so, the first respondent in stead of revoking the license and confiscating the whole plant etc., could have imposed any penalty as contemplated under Rule 9 (2) (b) of Andhra Pradesh Saw Mills (Regulation) Rules, 1969,

as the petitioner ekes out his living only by running the saw-mill and there being no other source of livelihood except running of the saw-mill. Therefore, I am not inclined to express any opinion on the merits and contentions of the petitioner, as it is always open for the appellate authority to consider all the contentions raised by the petitioner in the pending appeal before the second respondent.

Having regard to the facts and circumstances of the case, the second respondent is directed to consider and dispose of the appeal within six weeks from the date of receipt of this order after giving reasonable opportunity to the petitioner.

Accordingly, the writ petition is disposed of with the above observation. No costs.

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V. ESWARAIAH, J

March 14, 2005

Dsk

Note: Furnish copy in two days

(B/o)

Dsk

To

- 1 The Divisional Forest Officer, Karimnagar Division, Karimnagar District.
- 2 The Conservator of Forest, Warangal Circle, Warangal.
- 3 Two CCs to GP For Forests, High Court Buildings, Hyderabad (OUT)
- 4 Two CD Copies.